

Traveling court conducts actual case for rotary club

BY JAMIE HERGOTT

jhergott@flyergroup.com

BROWNSBURG — The Brownsburg Rotary Club members recently had an opportunity to sit in on the oral argument of an actual case presented to the Indiana Court of Appeals, without setting foot in a courtroom.

"Appeals on Wheels" is a program in which judges in the Indiana Court of Appeals

rotate in groups of three and travel across the state hearing oral arguments, enabling Hoosiers to learn more about the

judicial branch. The traveling courts have visited Indiana law schools, colleges and universities, high schools, hospitals, tourist sites, retirement communities, and county courthouses.

The Rotary Club hosted extra guests, including the Interact Club of Brownsburg High School, last week at Boulder Creek Dining Company to witness a case heard on appeal from Marion Superior Court's Civil Division. The case was heard by a panel of Judge James S. Kirsch, Judge Margaret G. Robb, and Judge Paul D. Mathias. This was the 201st oral argument on the road since early 2000.

The court was asked to decide whether a lawsuit for damages stemming from an alleged forged document is barred by the statute of limitations, and if not barred, whether the defendants are entitled to have a jury determine the amount of damages.

The judges heard from Linda Pence of Sommer Barnard, arguing for Nichols, and from Anthony Mommer of Krieg DeVault LLP, arguing for Prime Mortgage USA and Law.

The case started as if the banquet room was a courtroom in the Indiana Courthouse with Bailiff Will Ramsey calling the court to order by banging a

gavel and announcing, "Hear ye, hear ye, hear ye."

The case dates back to 2001, when Nichols filed a complaint seeking the appointment of a receiver and dissolution of Prime Mortgage, Inc., a company she co-founded with David Law. Within a few years of its beginning, the working relationship between Nichols and Law deteriorated and Nichols informed Law she

wished to sell her half of the stock in Prime. The two did not negotiate a buyout. Law claimed that not only did Nichols not own 50

JAMES S. KIRSCH

Judge

percent of the company's shares, but that Nichols signed a Share Authorization Document stating she authorized Law to give that portion of the shares away.

The judges started by listening to a 20-minute argument by Mommer, stating his client's case. Throughout his plea, the judges interjected with questions clarifying Mommer's statement and challenging what he had to say.

Robb said cases heard by traveling courts are usually cases that are conducive to dialogue between judges and attorneys so that the audience can better understand the way court systems work and the kinds of things that are important in a case.

The judges then heard from Pence for 20 minutes.

When the arguments concluded, the bailiff declared the court adjourned and the judges immediately broke into big smiles and stepped away from their seats to answer questions from Rotary Club members.

"It's really a special thing for us to escape the confines of the Statehouse," Kirsch said with a chuckle. "And now, though we can talk, we cannot talk about what you'd most want to talk about."

Kirsch explained that the judges did not want any undue or improper judgments or communication about the case



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Margaret G. Robb (left), James S. Kirsch (middle) and Paul Mathias are judges of the Indiana Court of Appeals and served on the traveling court last week to conduct an oral argument of an actual case for the Brownsburg Rotary club. Here they listen to trial lawyer Linda Pence discuss her client's argument.

they had just heard. The three judges would convene at a later time, reach a common consensus, and dub one judge to write up an opinion and turn it in to the courthouse. He also said each panel and case is randomly assigned, so no three judges ever travel together consistently.

All judges shared their most memorable traveling court experience. Mathias described one event at a LeGrange County High School.

"We had a wonderful little oral argument and the students had some great questions," Mathias said. "One man stood up in the back and told me he wanted to thank my colleague for overturning his attempted murder conviction." Mathias said his colleague informed the man he had actually voted in

dissent of that decision.

The Indiana Court of Appeals is the state's second-highest court and reviews appeals from trial court decisions. A decision of the Indiana Court of Appeals is final unless granted further review by the Indiana Supreme Court. The 15 judges on the Court of Appeals issue more than 2,500 written opinions each year, sitting in three-judge panels. Robb said they hear every kind of case except cases involving taxes and death penalty appeals.

"If you want to avoid death and taxes," Robb said, "don't come to us."

For more information on the "Appeals on Wheels" initiative, visit the website at www.in.gov/judiciary/appeals online.



The Honorable James S. Kirsch answers questions after conclusion of the oral argument.



The judges of the Indiana Court of Appeals pose with the Interact Club of Brownsburg High School, who were guests of the Brownsburg Rotary Club last Thursday.

